

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 07/27/05 Item: 3d

File Number
CP05-025

Application Type
Conditional Use Permit

Council District
9

Planning Area
Willow Glen

Assessor's Parcel Number(s)
451-07-014

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Suparna Saha

Location: Northwest corner of Kell Way and Almaden Road

Gross Acreage: 0.22 Net Acreage: 0.22 Net Density: n/a

Existing Zoning: CP – Commercial Existing Use: Vacant Retail Building and Parking lot
Pedestrian

Proposed Zoning: No change Proposed Use: Rental Car Office

GENERAL PLAN

Completed by: SS

Land Use/Transportation Diagram Designation
General Commercial

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: SS

North: Commercial CP Commercial Pedestrian Zoning District

East: Guadalupe River, Residential A- Agriculture

South: Office CP – Pedestrian Commercial

West: Church Parking Lot, Residential A(PD) Planned Development Zoning Districts
(Public /Quasi-Public)

ENVIRONMENTAL STATUS

Completed by: SS

☐ Environmental Impact Report adopted
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: SS

Annexation Title: Curtner No. 2

Date: September 1, 1955

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☒ Action
☐ Recommendation

CONTACT

The Hertz Corporation
Attn: Robert Peabody
177 Airport Blvd.
S. San Francisco, CA 94080

APPLICANT/OWNER

Huges Thomas A. At. Al.
12322 Brook Glen Drive
Saratoga, CA 95070-3411

PUBLIC AGENCY COMMENTS RECEIVED

Memorandum Attached

Completed by: SS

Fire Department

Memorandum Attached

Other Departments and Agencies

Memorandum Attached.

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The applicant, the Hertz Corporation, is requesting a Conditional Use Permit (CUP) to allow a 3,600 square foot car rental office within an existing vacant tenant space on a 0.22-acre site. The zoning ordinance requires a Conditional Use Permit for a rental business/automobile leasing facility in the Commercial Pedestrian (CP) Zoning district. No new construction is proposed.

The site is located at the northeast corner of Almaden Expressway and Kell Way (APN. 451-07-014). The site is long narrow strip of land that shares its circulation and driveway with the adjacent parcel on which "The Goodwill Store" is located. The retail development on the entire site has parking and access easements shared with the adjacent commercial uses. There is a pending Conditional Use Permit (File No. CP05-021) to allow automobile sales for Goodwill on a portion of the adjacent parcel, scheduled to be heard by the Planning Commission on July 27, 2005. The vacant tenant space was previously used for the sale of pool supplies.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project involves negligible or no expansion of use beyond that current use in that a portion of the site is proposed for a minor alteration to use for auto rentals in that the project consists of a minor alteration to an existing facility and expansion of use.

GENERAL PLAN CONFORMANCE

The subject site is designated General Commercial on the San Jose 2020 General Plan Land Use/Transportation Diagram. Rental car businesses are considered to be commercial uses and conform with this General Plan designation.

ANALYSIS

The main issue associated with this project is compatibility with adjacent land use. The proposed use does not include maintenance/ cleaning facilities and the storage of vehicles that are typically a part of

rental car operations. The use will be limited to the pickup and drop-off of vehicles with cleaning and storage of the vehicles occurring at another location. The twelve (12) existing on-site parking stalls will be used by customers and for the staging of rental vehicles which will not be permitted to be kept on the site for more than 24-hours.

On-site storage of vehicles is not allowed per the San Jose Zoning Code. Therefore, returned vehicles to the site will have to be removed within 24 hours from the drop-off time. In addition, washing and cleaning of the returned vehicles will be not be permitted on-site. The applicant does not propose to conduct any repair or mechanical servicing of the rental vehicles on site. The draft Conditional Use Permit includes conditions to prohibit automobile washing, servicing, vacuuming or maintenance on the site.

The site is located adjacent to an existing secondhand retail store, parking lot and future donated auto-sales yard. Staff believes that as conditioned, the rental car operation in the vacant retail building will not interfere with the circulation pattern of the parking lot and other businesses. Moreover, there are parking and access easements with the adjacent commercial properties.

Conformance with the Zoning Ordinance

Twelve (12) parking spaces will be provided in the front of the leasing office. The available on-site parking is in excess of the requirements of the Zoning Code. The project conforms to setback requirements of the CP Pedestrian Commercial Zoning District.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to answer questions on the project from the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution:

Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the CP Commercial Pedestrian Zoning District.
3. The proposed use will utilize approximately 1,000 square feet of the site for a car rental business.
 - a. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.

4. The use of a car rental business is appropriate to the location. The ordinance states that leasing of passenger vehicles is a Conditional Use Permit in the CP Commercial Pedestrian Zoning District.
5. The project site is located immediately adjacent to a major street, Almaden Expressway.
6. There are currently twelve (12) parking spaces on the subject site.
7. Surrounding land uses include commercial to the north, the Guadalupe River to the east, office uses to the south and a parking lot to the west.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram designation and relevant urban design policies.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. There is adequate on-site parking to serve existing and proposed uses.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara should be submitted to the Director of Planning within 30 days of approval of this permit, but must be prior to issuance of a Building Permit. Submittal of the recording fee less than a week prior to issuance of a Building Permit will delay the Building Permit issuance for up to one week to allow for recordation of the permit with the County Recorder. This permit shall be effective at such time when recordation with the County of Santa Clara occurs.
2. **Acceptance of Permit.** Per Section 20.100.290(B) should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "CP05-025," dated June 28, 2005, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building

Permit stage.

4. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. In conjunction with other tenant(s) in the subject commercial building, the subject applicant shall ensure that all public and private areas are kept free of litter, trash, cigarette butts and garbage.
5. **Rental Cars Number and Location.** The applicant shall be limited to a maximum of (9) nine rental cars parked at the subject at the site at any time. All rental cars associated with the subject operation shall be parked only in those areas indicated on the approved plan set. Rental cars shall not remain on the property for more than 24-hours.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
8. **Repair and Cleaning of Vehicles Prohibited.** No repair or servicing of vehicles would be allowed on the site. Cleaning of the vehicles with power equipment such as vacuums and washing of vehicles is also prohibited.
9. **Hours of Operation.** This facility shall be limited to operation between the hours of 6 a.m. to 12 midnight, unless a Conditional Use Permit is approved by the City for other hours of operation.
10. **Change to the Structure.** No interior or exterior modifications to the structure are approved with this permit. Any changes shown as proposed on the plans were part of the previous Conditional Use Permit and were not reviewed as part of this approval.
11. **Colors and Materials.** All structure colors and materials are to be those specified on the approved plan set.

CONDITIONS SUBSEQUENT

2. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is

using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

Attachments

cc: Hughes Thomas A. Et Al, 12322 Brook Glen Drive, Saratoga, CA 95070-3411.
Robert J. Peabody, 177 Airport Blvd., S. San Francisco, CA 94080.